

2017 JUN 19 AM 11:43

STATE OF WASHINGTON

BY [Signature]  
DEPUTY

STATEMENT OF ADDITIONAL  
GROUND FOR REVIEW

STATE OF WASHINGTON )

Respondent, )

v. )

MIKE WOOD

(your name)

Appellant )

No. 49593-7-11

STATEMENT OF ADDITIONAL  
GROUND FOR REVIEW

I, MIKE WOOD, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

*In compliance with the rules of appellate procedure 16.8(e), the defendant does hereby submit this timely addendum to his statement of additional grounds previously submitted to the court on or about May 16<sup>th</sup>, 2017. This additional grounds for relief follows, Findings of Facts and Conclusions on Merits and Probable Cause.*

Additional Ground 2

If there are additional grounds, a brief summary is attached to this statement.

Date: 6-14-17

Signature: Michael W. Wood

### Ground 3- Findings of Facts and Conclusions 6-14-17

The defendant believes he must challenge the Findings of Facts and Conclusions to Nexus and Probable Cause, in specific areas or the failure to do so would make them verities on direct appeal.

Because the defendant challenges the required Nexus and the findings of probable cause, the courts findings and facts would have persuasive bearing on appeal if not challenged those details submitted in support for those conclusions.

An appellate court reviews a trial courts denial of a suppression motion to determine whether substantial evidence supports the challenged findings of fact and whether these findings support the trial courts conclusions of law. Where the defendant does not challenge any of the trial courts findings of fact, the appellate court considers them verities on appeal. The appellate court reviews conclusions of law de-novo.

- 1.) Item #9, page 3 of the Findings and Conclusions. "Following these Transactions", is either a misstatement or unsupported inference in this paragraph.

In item #9 on page 3 the wording is as much

concludes that the defendant had been involved in several transactions yet the record and in fact the affidavit for the search warrant do not support this presumption.

In the 3.5 hearing June 30, 2016 it was revealed that the defendant had prior convictions for possession, not deliveries and this information was not available during the single controlled buy and the police investigators did not make any attempt to discover what the defendant was doing after that single controlled buy but relies instead on experience in support of inferences not directly supported by fact.

As stated in *State v. Shein*, 138 Wn.2d 133, 140, 977 P.2d 582 (1999). Blanket inferences are generally ~~not~~ prohibited.

Because the wording in paragraph 9, page 3 of the findings and conclusions make reference to more than a single transaction absent of any factual findings in the record, the defendant challenges any presumption gleaned from the findings and conclusions that would suggest that a factual basis exists to support that assertion. The defendant challenges the conclusory statement in paragraph 9 for lack of substantial evidence to support it.

2.) Items 3, 4, and 5 on page 4 of the findings and conclusions.

In these paragraphs, the findings state that behavior and evidence establishes a Nexus to which were predominantly supported by a loose blend of factual findings combined with bald assertions and unproven conclusions.

The defendant would thus challenge these 3 paragraphs in the facts and findings as equally lacking in support in the record substantially or even loosely to survive challenge.

Substantial evidence exists when there is a significant quantity of evidence in the record to persuade a fair minded rational person to the truth of the findings. Here, the defendant would argue, the record does not support the findings by substantial evidence.

Because of this the defendant believes that the required Nexus and Probable Cause for a search warrant are not sufficiently supported by real facts and real evidence above and beyond observations of behavior equally consistent with legal behavior.